

REMARKS

The Examiner has rejected claims 1-7 under 35 U.S.C. §102(b) as being anticipated by Gomez (US 2,670,485). Claims 1, and 3-7 have also been rejected under 35 U.S.C. §102(b) as being anticipated by Parker *et al.* (US 2,268,059), hereinafter Parker. The Examiner has also rejected claims 1, 3-7, and 21-23 under 35 U.S.C. §102(b) as being anticipated by Patzold *et al.* (US 4,502,173), hereinafter Patzold I, while claims 1, and 8-10 have been rejected under 35 U.S.C. §102(b) as being anticipated by Patzold *et al.* (US 4,484,371), hereinafter Patzold II, as evidenced by Patzold I. Furthermore, the Examiner has rejected claims 1, and 8-10 under 35 U.S.C. §103(a) as being unpatentable over Patzold II in view of Patzold I. Claim 11 has also been rejected under 35 U.S.C. §103(a) as being unpatentable over Haaga (US 5,896,611), hereinafter Haaga I. In addition, claims 11-12 and 18-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Haaga (US 5,184,367), hereinafter Haaga II. Furthermore, claims 11 and 13-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Haaga II in view of Parker. The Examiner has also rejected claims 8-9 under 35 U.S.C. §103(a) as being unpatentable over Parker in view of Joss *et al.* (US 4,644,605), hereinafter Joss.

Before addressing the Examiner's substantive rejections, the Applicant submits that claims 3, 13, and 22 have been canceled, and as such, any rejections made thereto are now moot. Furthermore, several amendments to the claims have been made for grammatical/clarification purposes only, and as such, no new matter has been entered.

After carefully studying the Examiner's last Office Action, the Applicant has amended claim 1 so that it is clearly distinguishable from Gomez, Parker, Patzold I, and Patzold II. In particular, claim 1 now recites a frame having a first surface opposite a second surface, the first surface of the frame secured to a lower portion of the front housing; a wheel well rising from and directly attached to the first surface of the frame; a height adjustment column housing disposed over, and enclosing the wheel well, the column rising from and directly attached to the first surface of the frame; a dirt receptacle removably attached on the first surface of the frame, wherein the front housing and column serve to orient the dirt receptacle in a position relative to the frame; and an adjustable wheel assembly positioned within the column housing.

Gomez teaches a sweeper whereby a vertically adjustable screw 66, that the Examiner refers to as a height adjustable column, is attached to the back of the frame of the sweeper. However, Gomez does not teach or suggest a wheel well rising from and directly attached to the first surface of

the frame, and a height adjustment column housing that is disposed over, and which encloses the wheel well, whereby the column rises from and is directly attached to the first surface of the frame, as in Applicant's claim 1. Furthermore, Gomez does not disclose an adjustable wheel assembly positioned within the column housing. Thus, because each and every limitation of claim 1 is not taught or suggested by Gomez, and the Applicant respectfully requests that the rejection of claims 1-2, and claims 4-7 depending therefrom be withdrawn.

Parker teaches a swivable wheel 51 that is provided at the rear of a sweeper, whereby the wheel is vertically adjustable by a screw 51a, which the Examiner refers to as a height adjustment column. However, as discussed above with regard to Gomez, the Applicant's claim 1 recites a wheel well rising from and directly attached to the first surface of the frame. Claim 1 also recites that the height adjustment column housing is disposed over the wheel well, such that the column rises from and is directly attached to the first surface of the frame. Claim 1 also recites an adjustable wheel assembly positioned within the column housing. Thus, the Applicant submits that the swivable wheel of Parker is not positioned within a column housing that is disposed over, and which encloses a wheel well, as is recited in Applicant's claim 1. Thus, because each and every limitation of claim 1 is not taught or suggested by Parker, the Applicant respectfully requests that the rejection of claim 1, and claims 4-7 depending therefrom be withdrawn.

Patzold I teaches a housing having a receptacle 57, which the Examiner treats as a height adjusting column, which maintains an actuating handle 64, that when rotated adjusts the height of the drive wheels 17 (column 6, lines 24-31). However, the receptacle 57 (height adjusting column) is not disposed over and does not enclose a wheel well that rises from and that is also directly attached to a first surface of the frame as in Applicant's claim 1. Additionally, Patzold I does not teach or suggest an adjustable wheel assembly that is positioned within the column housing, as in Applicant's claim 1. In particular, the drive wheel 19 of Patzold I, as shown in Fig. 5, is not positioned within the height adjustment column (receptacle 57), furthermore there is no teaching or suggestion of the ability to adjust the position of the drive wheel 19. Furthermore, while Patzold I teaches the ability to adjust drive wheels 17, such wheels 17 are not positioned within the receptacle 57 (height adjustment column) as recited in Applicant's claim 1. Moreover, none of these limitations discussed above with regard to claim 1 are taught or suggested by Patzold II as well.

Thus, because each and every limitation of claim 1 is not taught or suggested in Patzold I, or Patzold II, the Applicant respectfully requests that the rejection of claim 1, and the corresponding claims depending therefrom, be withdrawn.

With regard to the anticipation rejection of claim 21 based on Patzold I, the Applicant submits that such claim has been amended to recite a frame having a first surface opposite a second surface, the first surface of the frame secured to a lower portion of the front housing and extending rearwardly therefrom; a wheel well defined by said frame; a height adjustment column housing disposed over, and enclosing the wheel well, the column housing rising from and directly attached to the first surface of the frame; a dirt receptacle releasably attached to the frame; and an adjustable wheel assembly at least partially receivable within the column housing and movable vertically to adjust the height of the frame, wherein the adjustable wheel assembly at least partially supports the frame when the dirt receptacle is removed, and the wheel well at least partially receiving a wheel maintained by the adjustable wheel assembly.

As discussed, with regard to claim 1, Patzold I does not teach or suggest a height adjustment column housing that is disposed over and that encloses a wheel well, whereby the column housing rises from and is directly attached to a first surface of the frame. Thus, because each and limitation of claim 21 is not taught or suggested by Patzold I, the Applicant respectfully requests that the rejection of claim 21, and claim 23 depending therefrom be withdrawn.

With regard to the obviousness rejections discussed below, the Examiner should be reminded that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Last, the prior art reference (or references, when combined) must teach or suggest all the claim limitations. Moreover, the teaching or suggestion to make the claimed combination and the reasonable expectations of success must both be found in the prior art, and not based on the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

With regard to the Examiner's obviousness rejection of claims 1 and 8-10 based on Patzold II in view of Patzold I, the Applicant submits that each and every limitation of claim 1 is not taught individually or by the combination of Patzold I and Patzold II, as previously discussed. As such, the Applicant respectfully requests that the rejection of claim 1 and claims 8-10 depending therefrom be withdrawn.

Regarding the obviousness rejection of claim 11 based on Haaga I, the Applicant has amended Claim 11 to recite a frame having a first surface and a second surface, the first surface of

the frame secured to a lower portion of the front housing; a wheel well located toward the rear of the frame, and the wheel well rising from the first surface of the frame; a column housing disposed over and enclosing the wheel well, the column rising from and directly attached to the first surface of the frame; an adjustable wheel assembly positioned within the column housing; and a dirt receptacle removably attached on the first surface of the frame and adapted to receive dirt from the dirt scoop when placed in an operational position, wherein the front housing and column serve to orient the dirt receptacle in the operational position.

With regard to Haaga I, the Examiner indicates that the pushing arm 30 of Haaga I comprises a column. However, the Applicant has amended claim 11, such that the column is now a column housing, which is disposed over, and which encloses a wheel well. The pushing arm 30 of Haaga, which the Examiner asserts as being a column, clearly does not form a column housing, as is now recited in Applicant's claim 11. Furthermore, Haaga I also does not teach or suggest an adjustable wheel assembly positioned within the column housing as recited in Applicant's claim 11. Thus, because each and every element of claim 11 is not taught or suggested by Haaga, the Applicant submits that Haaga cannot be properly used in an obviousness rejection of claim 11. Thus, the Applicant respectfully requests that the rejection of claim 11 be withdrawn.

With regard to the obviousness rejection of claims 11-12 and 18-20 based on Haaga II, the Applicant submits that for the reasons set forth in the discussion of claim 11 regarding Haaga I, each and every element of claim 11 is not taught or suggested by Haaga II. As such, the Applicant respectfully requests that the rejection of claim 11 and claims 12 and 18-20 depending therefrom be withdrawn.

Regarding the obviousness rejection of claims 11 and 14-17, based on Haaga II in view of Parker, the Applicant submits that based on the discussion of claim 11 indicated above, Haaga II and Parker do not individually or by their combination teach or suggest each and every element of claim 11. In particular, Parker and Haaga II do not teach or suggest a wheel well located toward the rear of the frame, the wheel well rising from the first surface of the frame. Nor do Parker and Haaga II teach or suggest a column housing disposed over and enclosing the wheel well, whereby the column housing rises from and is directly attached to the first surface of the frame. Furthermore, Parker and Haaga II do not teach or suggest an adjustable wheel assembly that is positioned within the column housing. Thus, because Haaga II and Parker do not individually or by their combination teach or

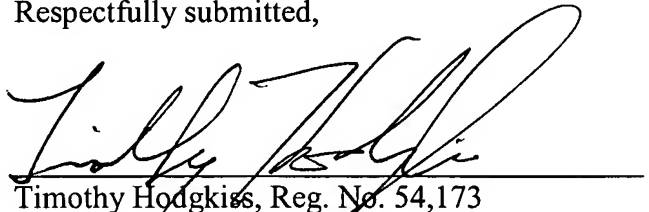
suggest each and every limitation of claim 11, the Applicant respectfully requests that the rejection of claim 11, and claims 14-17 depending therefrom be withdrawn.

In regard to the obviousness rejection of claims 8-9 based on Parker and Joss, the Applicant submits that each and every limitation of claim 1, as discussed above, from which claims 8 and 9 depend, are not taught or suggested individually or by the combination of Parker and Joss. As such, the Applicant respectfully requests that the rejection of claims 8-9 be withdrawn.

In view of the foregoing amendments and arguments presented herein, the Applicant believes that he has properly set forth the invention and accordingly, respectfully requests that the Examiner reconsider and withdraw the objections and rejections provided in the last Office Action. A formal Notice of Allowance of claims 1-2, 4-12, and 14-23 is earnestly solicited. Should the Examiner care to discuss any of the foregoing in greater detail, the undersigned attorney would welcome a telephone call.

In the event that a fee is required for the filing of this document, the undersigned Attorney hereby authorizes the Commissioner to charge payment of any fees associated with this communication to Deposit Account No. 18-0987. If a withdrawal is required from Deposit Account No. 18-0987, the undersigned Attorney respectfully requests that the Commissioner of Patents and Trademarks cite Attorney Docket **HOO2668** for billing purposes.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy Hodgkiss', is written over a horizontal line.

Timothy Hodgkiss, Reg. No. 54,173
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower - Fourth Floor
Akron, Ohio 44308-1456
Telephone: (330) 376-1242
Facsimile: (330) 376-9646

Attorney for the Applicant